

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper 9

Filed by: Merits Panel
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

THE REGENTS of the UNIVERSITY OF MICHIGAN

Junior Party,
(Application 08/200,711
Patent 5,622,860,
Patent 5,710,265,
Patent 5,817,787),

v.

JARL WIKBERG and VIJAY CHHAJLANI

Senior Party
(Application 08/387,805).

Patent Interference No. 104,319

Before: McKELVEY, Senior Administrative Patent Judge, and
SCHAFFER and LEE, Administrative Patent Judges.

PER CURIAM.

FINAL DECISION

A. Telephone conference call

A telephone conference call was held on 24 February 1999, at approximately 4:00 p.m. (1600 hours E.S.T.), involving:

- (1) DeAnn F. Smith, Esq., counsel for The Regents of the University of Michigan;
- (2) Steven R. Ludwig, Esq., counsel for Wikberg; and
- (3) Fred E. McKelvey, Senior Administrative Patent Judge.

The purpose of the telephone conference call was for Ms. Smith to advise the board that the junior party did not intend to file any papers in the interference. The parties were advised that the board would enter a final decision entering judgment against the junior party. Ms. Smith agreed that the action proposed by the board would be acceptable.

B. Judgment

Upon consideration of the record, it is

ORDERED that judgment on priority as to Count 1, the sole count in the interference, is awarded against junior party, THE REGENTS of the UNIVERSITY OF MICHIGAN.

FURTHER ORDERED that judgment on priority as to Count 1 is awarded in favor of senior party JARL WIKBERG and VIJAY CHHAJLANI.

FURTHER ORDERED that, on the record before the Board of Patent Appeals and Interferences, senior party JARL WIKBERG and VIJAY CHHAJLANI is entitled to a patent containing claims 114-117, 119-123, 125-130, 132-143, 145-148 and 150 (corresponding to Count 1) of application 08/387,805, filed 21 February 1995.

FURTHER ORDERED that Tadataka Yamada, Ira Gantz and junior party, THE REGENTS of the UNIVERSITY OF MICHIGAN, are not entitled to a patent containing claims 1-6 (corresponding to Count 1) of U.S. Patent 5,817,787, granted 6 October 1998, based on application 08/842,045, filed 23 April 1997.

FURTHER ORDERED that Tadataka Yamada, Ira Gantz and junior party, THE REGENTS of the UNIVERSITY OF MICHIGAN, are not entitled to a patent containing claims 40, 55 and 58 (corresponding to Count 1) of application 08/629,335, filed 23 July 1996.

FURTHER ORDERED that Tadataka Yamada, Ira Gantz and junior party, THE REGENTS of the UNIVERSITY OF MICHIGAN, are not entitled to a patent containing claims 1-16 (corresponding to Count 1) of U.S. Patent 5,710,265, granted 20 January 1998, based on application 08/672,109, filed 27 June 1996.

FURTHER ORDERED that Tadataka Yamada, Ira Gantz and junior party, THE REGENTS of the UNIVERSITY OF MICHIGAN, are

not entitled to a patent containing claim 4 (corresponding to Count 1) of U.S. Patent 5,622,860, granted 22 April 1997, based on application 08/200,711, filed 17 February 1994.

FURTHER ORDERED that if there is a settlement agreement, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

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| FRED E. McKELVEY, Senior |) | |
| Administrative Patent Judge |) | |
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| RICHARD E. SCHAFER |) | BOARD OF PATENT |
| Administrative Patent Judge |) | APPEALS AND |
| |) | INTERFERENCES |
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| JAMESON LEE |) | |
| Administrative Patent Judge |) | |

cc (via First Class Mail):

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the University of Michigan
(assignees of the Yamada patents
and applications involved in
the interference):

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